

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KAW VALLEY COMPANIES, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-2393-KHV
)	
HOME DEPOT U.S.A., INC.)	
HOME DEPOT SUPPLY, INC.)	
HOME DEPOT, INC.,)	
)	
Defendants.)	

ORDER

This matter comes before the court upon plaintiff's Motion to Amend Complaint (Doc. 16). Without seeking leave of court or obtaining written consent from defendants, plaintiff filed an Amended Complaint on December 18, 2006 (Doc. 14). In an order striking plaintiff's Amended Complaint, the court gave the parties until December 26, 2006 to seek the court's leave to amend any pleadings. Plaintiff timely filed the present motion on December 18, 2006. Here, plaintiff seeks to amend its complaint to include additional losses and claims of intentional acts of wrongfulness on the part of defendants.¹ The court has contacted defendants' counsel who does not oppose the present motion.

Fed. R. Civ. P. 15 controls the procedure for amending the pleadings. Rule 15(a) states, in pertinent part, that after a responsive pleading: "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when

¹ See Motion to Amend Complaint (Doc. 16) at 2.

justice so requires.”² In considering whether to grant leave to amend, the court evaluates several factors including whether the amendment will cause undue delay or prejudice to the non-moving party.³ As defendants do not object to the present motion, the amendment should not cause them prejudice. Accordingly, and in the interest of justice,

IT IS THEREFORE ORDERED that plaintiff’s Motion for Leave to Amend Complaint (Doc. 16) is granted. The court directs the Clerk to file Attachment 1 to Doc. 16 as plaintiff’s First Amended Complaint.

IT IS SO ORDERED.

Dated this 19th day of December, 2006, at Topeka, Kansas.

s/ K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge

²Fed. R. Civ. P. 15(a).

³ *Little v. Reed-Prentice Div. Of Package Mach. Co.*, 131 F.R.D. 591, 593 (D. Kan. 1990) (citations omitted).